

Suspending driver's licenses creates a vicious cycle: Column

Marc Levin and Joanna Weiss 6:03 a.m. MT Feb. 21, 2017

Some states are recognizing the injustice of linking to the ability to pay court-imposed fines and fees.



(Photo: Rich Pedroncelli, AP)

Though our nation feels more divided than ever, there is a common concern that cuts across party lines and entrenched ideological silos: a pervasive sense that we have failed to give all Americans an equal opportunity to attain the American dream.

Despite our best efforts, government policies too often create obstacles that prevent Americans from climbing the ladder of opportunity. Nowhere is this disparity more evident than in the criminal justice system.

It is universally understood that the justice system should be fair — and that those who violate the law should be held accountable, pay their dues, and move on. But too often, justice comes only for those who can afford

it. And all of us pay the price.

Consider the case of Damian Stinnie. A product of Virginia's foster care system, Damian graduated from high school with a 3.9 grade point average (<https://www.justice4all.org/wp-content/uploads/2016/07/Complaint-Driver's-License-Suspension-for-Court-Debt.pdf>) and went right to work, making close to minimum wage. Then he lost his job. In the four months it took for him to find a new position — another low-paying job in retail — he received four traffic citations. The total owed on the resulting fines and four sets of court costs was just over \$1,000.

Making only about \$300 a week, Damian could not pay his fines and fees in 30 days. The court gave him no other payment options. Instead, with no notice and no inquiry into his ability to pay, his driver's license was automatically suspended by the Department of Motor Vehicles.

As a result, Damian was caught between two untenable choices: risking more fines and possible jail time if caught driving with a suspended license, or losing his job because he didn't have a way to get to work. Months later, when he was diagnosed with lymphoma, he then had to choose between breaking the law and making his doctors' appointments.

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(<http://www.usatoday.com/story/opinion/policing/2017/02/01/criminal-justice-reform-jails-incarceration-policing-the-usa/97251208/>)

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Despite Supreme Court precedents against punishments based on a person's ability to pay, jurisdictions across the country have significantly increased the fines and fees they charge for criminal and traffic violations. In Virginia, assessments against criminal and traffic court defendants rose from \$281.5 million in 1998 to \$618.8 million in 2014 (https://www.washingtonpost.com/local/public-safety/virginia-suspends-drivers-licenses-in-unconstitutional-scheme-class-action-says/2016/07/12/cf5d15d4-47b4-11e6-bdb9-701687974517_story.html?utm_term=.a311b87f4f0d). Nearly a million Virginian drivers — roughly one in six (<http://www.whsv.com/content/news/DOJ-Virginia-drivers-license-suspension-law-is-unconstitutional-401114276.html>) — have had their license suspended for failure to pay court fines or fees.

And this problem is not unique to Virginia. About half of all states (http://www.texaspolicy.com/press_release/detail/easing-the-toll-of-the-justice-system) suspend driver's licenses for those who owe — and in most cases, simply cannot afford to pay — criminal justice debt. In California, courts have suspended more than 17% of adult driver's licenses (<https://wclp.org/wp-content/uploads/2015/04/Not-Just-a-Ferguson-Problem-How-Traffic-Courts-Drive-Inequality-in-California.pdf>) for failure to pay fines or fees. And roughly 1.8 million Texans (http://www.huffingtonpost.com/omar-epps/stop-suspending-drivers-l_b_12029934.html) have had their licenses revoked for failing to pay judicial costs.

Punishing people for not having money not only violates their due process and equal protection rights; it also is bad policy.

First, suspending a person's license is one of the most counterproductive ways for the criminal justice system to recoup its costs. Without a license, individuals, like Damian, cannot work to pay off fines and fees, or even get back to court for future hearings. A New Jersey study found that 42% of people (http://www.state.nj.us/mvc/pdf/About/AFTF_final_02.pdf) with a history of suspension lost their jobs when their licenses were suspended, and many were unable to find another position.

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Second, license suspension for conduct other than drunken driving makes us less safe by diverting resources from critical public safety concerns to arresting, prosecuting, adjudicating and sometimes incarcerating defendants for license suspension cases.

How can we stop this troubling and growing trend?

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Some people are going right back to the source — to court. Damian and three others filed a class action lawsuit

(<https://content.law.virginia.edu/news/201612/uva-law-team-hopes-put-brakes-drivers-license-suspensions-due-debt>) against the Virginia DMV and its practice of automatically suspending individuals' licenses when they cannot pay their court costs. Damian's case is making its way through federal court, with a procedural hearing just this month. Similar cases have been filed across the country.

Rather than wait for the legal system to run its course, some states — recognizing the injustice of tying one's driver's license to the ability to pay court-imposed fines and fees — are taking action. Virginia Gov. Terry McAuliffe recently announced plans to introduce a broad suite of criminal justice reforms (<http://wtnv.com/2017/01/03/mcauliffe-dont-suspend-drivers-license-if-someone-cant-pay-court-costs/>) that would end the commonwealth's use of automatic license suspension. In Florida, Republican Sen. Jeff Brandes and Democratic Sen. Darryl Rouson recently filed legislation (<https://www.flsenate.gov/Media/PressRelease/Show/2590>) to end suspensions for non-driving related offenses. In other states, there are courts that are already pursuing better solutions, such as giving judges the authority to adjust fines based on income.

This type of commonsense criminal justice reform has strong bipartisan support. Even in a divided nation, we can agree that our criminal justice system must dispense justice fairly and equally, and that policies disproportionately punishing the poorest among us have no place in our courts.

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